



A BILL FOR AN ORDINANCE

TO AMEND CHAPTER 14, REVISED ORDINANCES OF HONOLULU 1990, AS AMENDED, RELATING TO PUBLIC WORKS INFRASTRUCTURE REQUIREMENTS INCLUDING FEES AND SERVICES.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose and intent. The purpose of this ordinance is to amend Article 16 ("Violations, Penalties and Liabilities for Grading, Grubbing and Stockpiling") of ROH Chapter 14.

SECTION 2. Section 14-16.2, Revised Ordinances of Honolulu 1990, as amended, is amended to read as follows:

"Sec. 14-16.2 Notice of violation — Stop work.

- (a) Whenever any person, firm or corporation violates any provision of Articles 13 through 16 of this chapter, the [chief engineer] director of planning and permitting shall serve the person, firm or corporation with a notice of violation which shall require the person, firm or corporation responsible to correct the violation. A notice of violation must be served upon responsible persons either personally or by certified mail. However, if the whereabouts of such persons are unknown and the same cannot be ascertained by the director of planning and permitting in the exercise of reasonable diligence and the director provides an affidavit to that effect, then a notice of violation may be served by publishing the same once each week for two consecutive weeks in a daily or weekly publication in the city pursuant to HRS Section 1-28.5.
- (b) The notice of violation shall include but not be limited to the following information:
- (1) The date of issuance of the notice;
 - (2) The name and address of the person or entity notified and the location of the violation;
 - (3) The section number of the ordinance, code or rule which has been violated;
 - (4) The nature of the violation;[and]
 - (5) An order to stop work if deemed necessary by the [chief engineer;] director of planning and permitting; and



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- (6) The deadline for correction of the violation.
- (c) If the [chief engineer] director of planning and permitting deems it necessary for work to stop, the work shall cease upon receipt of the notice and shall not resume until corrective measures satisfactory to the [chief engineer] director have been taken. If the notice includes a stop work order, the [chief engineer] director shall notify and transmit a copy to the chief of police concurrently with the issuance of the notice. The chief of police shall have the power to enforce the stop work order pursuant to Section 6-1604, Revised Charter of Honolulu, 1973, as amended."

SECTION 3. Section 14-16.4, Revised Ordinances of Honolulu 1990, as amended is amended to read as follows:

"Sec. 14-16.4 Administrative enforcement.

- (a) In lieu of or in addition to enforcement pursuant to Section 14-16.3, if the director of planning and permitting determines that any person, firm or corporation is not complying with a notice of violation, the director of planning and permitting may issue an order to the person or entity responsible for the violation, pursuant to this section.
- (b) Contents of Order.
- (1) The order may require the party responsible for the violation to do any or all of the following:
- (A) Correct the violation within the time specified in the order;
 - (B) Upon compliance with the provisions of HRS Chapter 91, pay a civil fine not to exceed \$5,000.00 in the manner, at the place and time specified in the order; [and]
 - (C) Upon compliance with the provisions of HRS Chapter 91, pay a civil fine not to exceed \$5,000.00 per day for each day in which the violation occurs, in the manner and at the time and place specified in the order[.] ; and



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- (D) Restore the land affected by the violation to its original condition and obtain a certificate of completion from the director of planning and permitting. Restoration of the land must be completed within 30 days of the order becoming final.
- (2) The order shall advise the party responsible for the violation that the order shall become final 30 calendar days after the date of its delivery.
- (c) Recurring Violations.
- (1) Persons who have previously committed a violation under this chapter, in a 5-year period, may be required to pay initial and daily civil fines under subsection (b) hereof in amounts up to two times the fine amounts previously imposed by the director of planning and permitting for the immediately preceding violation.
- (2) Where a person commits a violation under this chapter, at the same location, more than one time in a 12-month period, the director of planning and permitting shall refer the finding of violation to the prosecuting attorney for initiation of a criminal prosecution pursuant to Section 14-16.3.
- (d) Service of Notice of Order. A notice of order must be served upon responsible persons either personally or by certified mail. However, if the whereabouts of such persons are unknown and the same cannot be ascertained by the director of planning and permitting in the exercise of reasonable diligence and the director provides an affidavit to that effect, then a notice of order may be served by publishing the same once each week for two consecutive weeks in a daily or weekly publication in the city pursuant to HRS Section 1-28.5.
- [(d)](e) Judicial Enforcement of Order. The director of planning and permitting may institute a civil action in any court of competent jurisdiction for the enforcement of any order issued pursuant to this section. If a violator does not pay the civil penalty assessed by the director of planning and permitting within 30 days after it is due, or does not request an administrative hearing to contest the violation within the time provided by the order, the director of planning and permitting shall request the corporation counsel to institute a civil action to recover the amount of the assessment. Where the civil action has been instituted to enforce the civil fine imposed by said order, the director of planning and permitting need only show that the notice of violation and order were served, that a civil fine was imposed, the amount of the civil fine imposed and that the fine imposed has not been paid.



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[(e)](f) Injunctive Relief. The director of planning and permitting may institute a civil action in any court of competent jurisdiction to enjoin any violation, or threatened violation of this chapter. The institution of an action for injunctive relief does not relieve any person from liability under the civil and criminal penalties for violations of this chapter.

[(f)](g) Exception – At the discretion of the director, the owner and developer of the property or person or persons responsible for such grading shall be deemed to have not violated the provisions of Article 13 through 16 of this chapter by grading without a permit in cases of natural or manmade disasters.

For the purposes of this section, a "natural disaster" includes disasters caused by fire, flood, tidal waves, hurricanes, tsunamis, volcanic eruptions, earthquakes, or other natural causes; and a "man-made disaster" includes disasters caused by enemy attacks, sabotage, other hostile actions, or disasters to individual homes, or other disasters manufactured, created or constructed by mankind."

SECTION 4. Section 14-16.6, Revised Ordinances of Honolulu 1990, as amended is amended to read as follows:

"Sec. 14-16.6 Rule making powers.

The [chief engineer] director of planning and permitting shall be empowered to promulgate rules and regulations pursuant to HRS Chapter 91, for the implementation of the provisions of Articles 13 through 16 of this chapter."

SECTION 5. Section 14-16.7, Revised Ordinances of Honolulu 1990, as amended is amended to read as follows:

"Sec. 14-16.7 Decisions of the [chief engineer.] director of planning and permitting.

Decisions of the [chief engineer] director of planning and permitting made in accordance with the provisions of Articles 13 through 16 of this chapter, [and/or] and decisions involving variations from the standards referred to herein, or both, shall be made a matter of record in the permit file."

SECTION 6. Ordinance material to be repealed is bracketed; new material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the revisor of ordinances need not include the brackets, the bracketed material, or the underscoring.



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE 15-15

BILL 66 (2014), CD1

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SECTION 7. This ordinance takes effect upon its approval.

INTRODUCED BY:

Ernest Martin (b/r)

DATE OF INTRODUCTION:

October 30, 2014
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Don S. Kitaoka
Deputy Corporation Counsel DON S. KITAOKA

APPROVED this 22nd day of June, 20 15.

Kirk Caldwell
KIRK CALDWELL, Mayor
City and County of Honolulu

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

ORDINANCE 15-15

BILL 66 (2014), CD1

Introduced: 10/30/14

By: ERNEST MARTIN (BR)

Committee: ZONING AND PLANNING

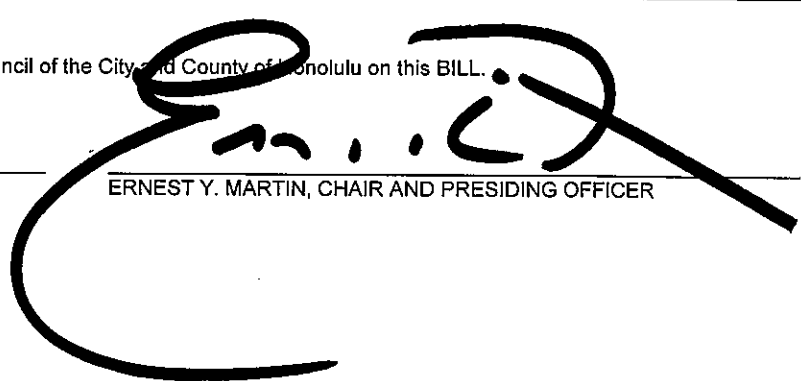
Title: A BILL FOR AN ORDINANCE TO AMEND CHAPTER 14, REVISED ORDINANCES OF HONOLULU 1990, AS AMENDED, RELATING TO PUBLIC WORKS INFRASTRUCTURE REQUIREMENTS INCLUDING FEES AND SERVICES.

Voting Legend: * = Aye w/Reservations

		NOTE: EFFECTIVE NOVEMBER 4, 2014, COUNCILMEMBER BREENE HARIMOTO, REPRESENTING COUNCIL DISTRICT VIII, RESIGNED FROM OFFICE. (Refer to Communication CC-245)
		NOTE: BRANDON ELEFANTE WAS SWORN IN AND TOOK OFFICE AS A MEMBER OF THE HONOLULU CITY COUNCIL ON WEDNESDAY, NOVEMBER 12, 2014 REPRESENTING DISTRICT VIII.
11/12/14	COUNCIL	BILL PASSED FIRST READING AND REFERRED TO COMMITTEE ON ZONING AND PLANNING. 8 AYES: ANDERSON, CHANG, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MENOR, PINE. 1 ABSENT: MARTIN.
		NOTE: COUNCILMEMBER OZAWA TOOK OFFICE ON FRIDAY, JANUARY 2, 2015.
02/07/15	PUBLISH	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR ADVERTISER.
02/12/15	ZONING AND PLANNING	CR-52(15) – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AND SCHEDULING OF A PUBLIC HEARING AS AMENDED IN CD1 FORM.
02/18/15	COUNCIL/PUBLIC HEARING	CR-52(15) ADOPTED. BILL PASSED SECOND READING AS AMENDED, PUBLIC HEARING CLOSED AND REFERRED TO COMMITTEE ON ZONING AND PLANNING. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE.
02/25/15	PUBLISH	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
05/28/15	ZONING AND PLANNING	CR-215(15) – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING.
06/03/15	COUNCIL	CR-215(15) ADOPTED AND BILL 66 (2014), CD1 PASSED THIRD READING. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE.

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this BILL.


GLEN TAKAHASHI, CITY CLERK


ERNEST Y. MARTIN, CHAIR AND PRESIDING OFFICER